IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	:	**MISCELLANEOUS ACTION**
	:	
FRANCIS MALOFIY	:	**NO. 2:14-mc-00139-UJ**

PETITION FOR REINSTATEMENT OF THE PETITIONER, FRANCIS MALOFIY

The Petitioner, Francis Malofiy, by and through his counsel, Samuel C. Stretton, Esquire, respectfully requests this Honorable Court grant his Petition for Reinstatement to the Practice of Law before this Honorable Court for the following reasons:

1. The Petitioner, Francis Malofiy, was admitted to practice law in the Commonwealth of Pennsylvania on October 14, 2008. He was subsequently then admitted to practice before the United States District Court for the Eastern District of Pennsylvania and the United States Court of Appeals for the Third Circuit.

2. The Petitioner was suspended from the practice of law for three months and one day by final Order dated June 9, 2015 of the Honorable Petrese B. Tucker, Chief Judge of the United States District Court for the Eastern District of Pennsylvania. The suspension was after a recommendation by a three judge panel, consisting of the Honorable John R. Padova, the Honorable Juan Sanchez and the Honorable Legrome D. Davis, recommending a three month and one day suspension from the practice of law.

The Respondent had challenged that suspension and his appeal was denied by the United States Court of Appeals for the Third Circuit. A Petition for Writ of Certiorari was denied recently by the United States Supreme Court.

3. The Petitioner was suspended for three months and one day based on a finding by the United States District Court for the Eastern District of Pennsylvania for violating the following Rules of Professional Conduct. The first Rule was Rule 4.3 involving Mr. Malofiy's contact with William Guice, the Defendant in the lawsuit where Mr. Malofiy was representing the Plaintiff. Mr. Malofiy was found in violation of Rule of Professional Conduct 8.4(c) involving misrepresentation regarding his contact with Williams Guice. Mr. Malofiy was found in violation of Rule 8.4(d) involving conduct contrary to the administration of justice due to his contact with Mr. Guice. Mr. Malofiy was also found in violation of Rule 8.1(a) of the Rules of Professional Conduct involving a violation of other Rules of Conduct. Mr. Malofiy was sanctioned with a suspension of three months and one day.

4. For Mr. Malofiy to be reinstated, pursuant to the Rules of the United States District Court for the Eastern District of Pennsylvania, he would have to Petition for Reinstatement and prove he has the required learning, character and fitness to be reinstated, and he must prove that by clear

and convincing evidence. (See Local Rule of the United States District Court for the Eastern District of Pennsylvania, rule 83.6 (vii)(c).

5. The suspension of three months and one day was in excess of what the prosecuting attorney from the Office of Disciplinary Counsel had recommended, which was a private reprimand.

6. The found misconduct occurred almost five years ago and essentially occurred during telephone conversations on February 23, 2012 and a subsequent default judgment entered three or four months after that.

7. Mr. Malofiy was suspended reciprocally by the Supreme Court of Pennsylvania for three months and one day, the United States Court of Appeals for the Third Circuit, and there is pending reciprocal discipline before the United States Tax Court. Reciprocal discipline is also pending a hearing in the United States Court of Appeals for the Ninth Circuit where Mr. Malofiy was admitted recently.

8. Although Mr. Malofiy is currently under suspension by the Pennsylvania Supreme Court for three months and one day, he will be automatically reinstated at the conclusion of the three months and one day since Pennsylvania does not require a reinstatement hearing as long as the suspension is one year or less. Mr. Malofiy, therefore, will be reinstated in the

Pennsylvania Courts, since to his knowledge there is no other pending discipline, sometime in March of 2017.

9. Mr. Malofiy has complied with all the Rules required of a suspended attorney. Notice has been given to clients. He is not currently practicing law except before the United States Tax Court and the United States Court of Appeals for the Ninth Circuit, where he is still admitted. Mr. Malofiy is not currently practicing law in the Commonwealth of Pennsylvania or before this Honorable Court or before the United States Court of Appeals for the Third Circuit.

10. Mr. Malofiy would ask this Honorable Court consider an early hearing for reinstatement since at least one of his former clients has discovery deadlines and trials in early 2017. He would like to participate in this trial if he is reinstated to the practice of law in this Honorable Court at that time.

11. During his suspension, Mr. Malofiy has complied with all the Rules of this Honorable Court. He has not practiced law or held himself out as a practicing attorney. His practice and his cases have been taken over by Attorney A.J. Fluehr, who is a licensed attorney.

12. At the reinstatement hearing, the Petitioner, Francis Malofiy, will present character witnesses as to his current excellent character for the important traits, and he will also testify as to his acceptance of responsibility and change and

reform. Mr. Malofiy has greatly learned from this matter and his misconduct would not be repeated. He fully understands the findings of the Court and the reasoning behind the findings, and promises such misconduct will never occur again.

13. Pursuant to Local Rules of the United States District Court for the Eastern District of Pennsylvania, Civil Rule 83.6 (vii), the standard for reinstatement is set forth. Pursuant to that Rule, the Petitioner, Francis Malofiy, must meet the following burden of proof:

> "The judge or judges assigned to the matter shall promptly schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that the Petitioner has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that the Petitioner's resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice or subversive of the public interest." [United States District Court for the Eastern District of Pennsylvania, Local Civil Rule 83.6 (vii)(c)].

14. The Petitioner, Francis Malofiy, through his counsel, Samuel C. Stretton, Esquire, is prepared to meet his burden of proof and to demonstrate he is now fit to practice law in the United States District Court again.

15. Mr. Malofiy respectfully requests this Honorable Court set a reinstatement hearing as soon as possible so he can present the required evidence necessary to meet his burden of proof.

WHEREFORE, the Petitioner, Francis Malofiy, by and through his counsel, Samuel C. Stretton, Esquire, respectfully files this Petition for Reinstatement and asks for a timely hearing so he can be reinstated to practice law again before this Honorable Court.

Respectfully submitted,

s/Samuel C. Stretton

Samuel C. Stretton, Esquire
Attorney for Francis Malofiy
301 S. High Street
P.O. Box 3231
West Chester, PA 19381
(610) 696-4243
Attorney I.D. No. 18491

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	:	**MISCELLANEOUS ACTION**
	:	
FRANCIS MALOFIY	:	**NO. 2:14-mc-00139-UJ**

CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the Petition for Reinstatement on behalf of Francis Malofiy in the captioned matter upon the following persons in the manner indicated below.

Service by First Class Mail addressed as follows:

1. Honorable John R. Padova
U.S. District Court for the
Eastern District of Pennsylvania
17613 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

2. Honorable Legrome D. Davis
United States District Court for the
Eastern District of Pennsylvania
6614 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

3. Honorable Juan R. Sanchez
U.S. District Court for the
Eastern District of Pennsylvania
11614 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

4. Harold E. Ciampoli, Jr., Esquire
Office of Disciplinary Counsel
820 Adams Avenue, Suite 170
Trooper, PA 19403

5. Honorable James T. Giles
Hope A. Cominsky, Esquire
Pepper Hamilton, LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103-2799

6. Francis Malofiy
Francis Alexander, LLC
280 N. Providence Rd., Suite 1
Media, PA 19063

Respectfully submitted,

January 24, 2017
Date

s/Samuel C. Stretton
Samuel C. Stretton, Esquire
Attorney for Petitioner,
Francis Malofiy
301 S. High Street
P.O. Box 3231
West Chester, PA 19381
(610) 696-4243
Attorney I.D. No. 18491